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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION N
10/668,658	09/23/2003	Bart Chernow	005123.00065	2069
22908	7590	11/02/2004	EXAMINER	
BANNER & WITCOFF, LTD. TEN SOUTH WACKER DRIVE SUITE 3000 CHICAGO, IL 60606			ASTORINO, MICHAEL C	
			ART UNIT	PAPER NUMBER
			3736	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/668,658

Applicant(s)

CHERNOW ET AL.

Examiner

Michael C Astorino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1, 3/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because figures 1, 2, and 3 are too dark. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. The examiner suggests amending Claim 9 to recite, "The system of claim 1 wherein the patient display is configured to *display* the patient's medical records."
3. Claims 25 and 26 are missing from the claim list. Misnumbered claims 27-41 been renumbered 25-39.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 incorporates the use of a base station and plurality of terminals which is not adequately disclosed in the specification. Additionally claims 2-15 and 41 are objected to as being dependent on a rejected claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 22, 23, 24, 25, 26, and 27 rejected under 35 U.S.C. 102(e) as being anticipated by Ise et al. US Patent Number 6,352,504 B1.

Claim 1. A system for monitoring data comprising:

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a remote electronics unit (102A) for acquiring physiological data from a patient and for wirelessly transmitting the physiological data to a base station,

the base station (104 and or 112 and/or 120) comprising a plurality of terminals for transmitting the physiological data to a patient display.

Claim 7. The system of claim 1 further comprising a chest assembly (204) configured to attach to the remote electronics unit for collecting the physiological data from the patient and transmitting the physiological data to the remote electronics unit.

Claim 8. The system of claim 1 wherein the physiological data pertains to information selected from the group consisting EKG signals (204 and column 6, lines 24-44), blood pressure data, temperature readings, pulse, respiration rate data, pulse oximeter data, entertidal CO₂ concentrations, cardiac output, pulmonary artery pressures, peripheral vascular resistance, oxygen consumption, and oxygen delivery to tissues. (204 and column 6, lines 24-44).

Claim 9. The system of claim 1 wherein the patient display is configured to display the patient's medical records. (104 and or 112 and/or 120)

Claim 10. The system of claim 1 further comprising a central monitoring station (120) for receiving the physiological data from the patient.

Claim 11. The system of claim 10 wherein the remote electronics unit is configured to wirelessly

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transmit the physiological data to the central monitoring station (figure 1).

Claim 12. The system of claim 10 wherein the central monitoring station (figure 1) is configured to receive the physiological data via wired transmission.

Claim 13. The system of claim 10 wherein the central monitoring station is *capable* of two-way communication with the remote electronics unit. (figure 1)

Claim 14. The system of claim 10 wherein the central monitoring station is *capable* of two-way communication with the patient display. (104 and or 112 and/or 120)

Claim 15. The system of claim 1 wherein the patient display comprises a data entry device.
(inherent via telemeter for 104, and additionally for 112 and 120 a keyboard)

Claim 16. A system for monitoring the physiological data associated with at least one patient comprising, in combination:

- at least one remote electronics unit (102a/204) removably connected to a chest assembly for acquiring physiological signals from a patient, the remote electronics unit comprising
 - a transmitter (102a) for transmitting the physiological signals;
 - at least one repeater (106) comprising a receiver for receiving the physiological signals from the body electronics unit and a transmitter for transmitting the physiological signals;

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a central monitoring station (112 or 120) comprising a receiver for wirelessly receiving the physiological signals from the at least one repeater;

at least one patient display (112 or 120) for receiving the physiological signals from the central monitoring station..

Claim 22. The system of claim 16 wherein the physiological data pertains to information selected from the group consisting EKG signals, blood pressure data, temperature readings, pulse, respiration rate data, pulse oximeter data, entertidal CO2 concentrations, cardiac output, pulmonary artery pressures, peripheral vascular resistance, oxygen consumption, and oxygen delivery to tissues. (204 and column 6, lines 24-44).

Claim 23. The system of claim 16 wherein the at least one patient display is *capable* of displaying the patient's medical records. (104, 112, or 120)

Claim 24. The system of claim 16 wherein the central monitoring station is *capable* of two-way communication with the at least one remote electronics unit. (figure 1)

Claim 25. (previously Claim 27). The system of claim 16 wherein the central monitoring station is *capable* of two-way communication with the patient display. (104 and or 112 and/or 120)

Claim 26. (previously Claim 28). The system of claim 16 wherein the patient display comprises a data entry device. (inherent via telemeter for 104, and additionally for 112 and 120 a keyboard)

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Claim 27. (previously Claim 29). The system of claim 16 further comprising an electronic medical records system. (see abstract)

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 3, 5, 6, 17, 18, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flach et al. US Patent Number 5,44,659 as applied to claims 1 and 16 above, and further in view of Ise et al. US Patent Number 6,352,504 B1.

Flach et al. discloses a system for monitoring data including a patient display (104) but fails to disclose the location and structure of the patient display. However, Ise et al. discloses a patient display on a transportable bed or wall mount (figure 1A, 1B, 13B, 14A, 14B, 15B). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the patient display/bedside monitor of Flach et al in view of patient display Ise et al., since Ise et al. states the benefit of a transport patient display module in a simple and reliable manner.

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Claim 2. The system of claim 1 wherein the patient display is configured to be attached to a hospital bed. (figure 1A, 1B, 13B, 14A, 14B, 15B).

Claim 3. The system of claim 2 wherein the patient display is configured to be rotatably connected to a swivel arm. (figure 1A, 1B, 13B, 14A, 14B, 15B).

Claim 5. The system of claim 1 wherein the patient display is configured to be attached to a transport mechanism. (figure 1A, 1B, 13B, 14A, 14B, 15B).

Claim 6. The system of claim 1 wherein the patient display is configured to be connected to a wall unit. (figure 1A, 1B, 13B, 14A, 14B, 15B).

Claim 17. The system of claim 16 wherein the at least one patient display is configured to be attached to a hospital bed. (figure 1A, 1B, 13B, 14A, 14B, 15B).

Claim 18. The system of claim 17 wherein the at least one patient display is configured to be rotatably connected to a swivel arm. (figure 1A, 1B, 13B, 14A, 14B, 15B).

Claim 20. The system of claim 16 wherein the at least one patient display is configured to be attached to a transport mechanism. (figure 1A, 1B, 13B, 14A, 14B, 15B).

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Claim 21. The system of claim 16 wherein the at least one patient display is configured to be connected to a wall unit. (figure 1A, 1B, 13B, 14A, 14B, 15B).

10. Claims 28, 29, 31, 32, 33, 34, 35, 36, 37, 38 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flach et al. US Patent Number 5,44,659 in view of Ise et al. US Patent Number 6,352,504 B1.

Claim 28. (previously Claim 30). A system for monitoring data comprising:

- a remote electronics unit (102) for acquiring physiological data from a patient;

- a central monitoring station (112 or 120) for receiving the physiological signals from the remote electronics unit, the central monitoring station comprising a processor for processing the physiological signals and a transmitter for transmitting the processed signals;

- a patient display (104) for receiving the processed physiological signals from the central monitoring station, but does not disclose the patient display is *configured* to be attached to a hospital bed. However, Ise et al. does disclose the patient display is *configured* to be attached to a hospital bed (figure 1A, 1B, 13B, 14A, 14B, 15B). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the patient display/bedside monitor of Flach et al in view of patient display Ise et al., since Ise et al. states the benefit of a transport patient display module in a simple and reliable manner.

Claim 29. (previously Claim 31). The system of claim 30 wherein the patient display is configured to be rotatably connected to a swivel arm. (figure 1A, 1B, 13B, 14A, 14B, 15B).

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Claim 31. (previously Claim 33). The system of claim 29 wherein the patient display is configured to be attached to a transport mechanism. (figure 1A, 1B, 13B, 14A, 14B, 15B).

Claim 32. (previously Claim 34). The system of claim 29 wherein the patient display is configured to be connected to a wall unit. (figure 1A, 1B, 13B, 14A, 14B, 15B).

Claim 33. (previously Claim 35). The system of claim 29 further comprising a chest assembly *configured* to attach to the remote electronics unit for collecting the physiological data from the patient and transmitting the physiological data to the remote electronics unit. (See Flach et al., figure 1).

Claim 34. (previously Claim 36). The system of claim 29 wherein the physiological data pertains to information selected from the group consisting EKG signals, blood pressure data, temperature readings, pulse, respiration rate data, pulse oximeter data, entertidal CO₂ concentrations, cardiac output, pulmonary artery pressures, peripheral vascular resistance, oxygen consumption, and oxygen delivery to tissues. (See Flach et al., 204 and column 6, lines 24-44).

Claim 35. (previously Claim 37). The system of claim 29 wherein the patient display is *capable* of displaying the patient's medical records. (See Flach et al., 104).

Claim 36. (previously Claim 38). The system of claim 29 wherein the central monitoring station is *capable* of two-way communication with the remote electronics unit. (See Flach et al., figure

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1).

Claim 37. (previously Claim 39). The system of claim 29 wherein the central monitoring station is *capable* of two-way communication with the patient display. (See Flach et al., figure 1)

Claim 38. (previously Claim 40). The system of claim 29 wherein the patient display comprises a data entry device. (See Flach et al., inherent via telemeter for 104, and additionally for 112 and 120 a keyboard).

Claim 39. (previously Claim 41). The system of claim 1 further comprising an electronic medical records system. (See abstract of Flach et al.)

11. Claims 2, 3, 4, 17, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flach et al. US Patent Number 5,44,659 as applied to claims 1 and 16 above, and further in view of Beney US Patent Number 4,768,241 B1 (cited by applicant).

Flach et al. discloses a system for monitoring data including a patient display (104) but fails to disclose the location and structure of the patient display. However Beney discloses a patient display on a transportable bed or wall mount (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the patient display/bedside monitor of Flach et al in view of patient display Beney, since Beney states the benefit of a self-contained mobile care unit.

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Claim 2. The system of claim 1 wherein the patient display is configured to be attached to a hospital bed. (see Beney, Figure 1)

Claim 3. The system of claim 2 wherein the patient display is configured to be rotatably connected to a swivel arm. (see Beney, Figure 1)

Claim 4. The system of claim 3 wherein the patient display is capable of rotating about a vertical axis defined by the swivel arm. (see Beney, Figure 1)

Claim 17. The system of claim 16 wherein the at least one patient display is configured to be attached to a hospital bed. (see Beney, Figure 1)

Claim 18. The system of claim 17 wherein the at least one patient display is configured to be rotatably connected to a swivel arm. (see Beney, Figure 1)

Claim 19. The system of claim 18 wherein the at least one patient display is *capable* of rotating about a vertical axis defined by the swivel arm. (see Beney, Figure 1)

12. Claims 28, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flach et al. US Patent Number 5,44,659 in view of Beney US Patent Number 4,768,241 B1. (cited by applicant).

Claim 28. (previously Claim 30). A system for monitoring data comprising:

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a remote electronics unit (102) for acquiring physiological data from a patient;

a central monitoring station (112 or 120) for receiving the physiological signals from the remote electronics unit, the central monitoring station comprising a processor for processing the physiological signals and a transmitter for transmitting the processed signals;

a patient display (104) for receiving the processed physiological signals from the central monitoring station, but does not disclose the patient display is *configured* to be attached to a hospital bed, but fails to disclose the location and structure of the patient display. However Beney discloses a patient display on a transportable bed or wall mount (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the patient display/bedside monitor of Flach et al in view of patient display Beney, since Beney states the benefit of a self-contained mobile care unit.

Claim 29. (previously Claim 31). The system of claim 30 wherein the patient display is configured to be rotatably connected to a swivel arm. (Figure 1)

Claim 30. (previously Claim 32). The system of claim 31 wherein the patient display is capable of rotating about a vertical axis defined by the swivel arm. (Figure 1)

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nessmann et al. US Patent Number 6,205,601 (cited by applicant).

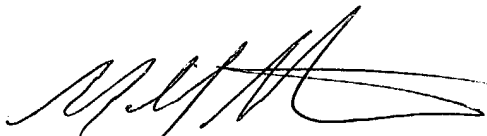
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C Astorino whose telephone number is 703-272-4723.

The examiner can normally be reached on Monday-Friday, 10:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (703) 308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Michael Astorino', with a stylized, sweeping flourish at the end.

Michael Astorino
October 29, 2004